

Appl. No. 10/785,350  
Amdt. dated December 9, 2004  
Reply to Office Action of September 9, 2004

### REMARKS

Applicants have carefully reviewed the Office Action dated September 9, 2004, regarding the above-referenced patent application. Currently, claims 13-20 are pending in the application, wherein claims 13-20 have been rejected by the Examiner. Applicants have amended the specification to correct spelling errors and update the status of related applications of which the current application is a continuation of. It is asserted that no new matter has been added with these amendments. Favorable consideration of the following remarks is respectfully requested.

Claim 17 is objected to under 37 C.F.R. §1.75(c), as being of improper dependent form for failing to limit the subject matter of a previous claim. Specifically, claim 17 was a duplicate of claim 16 and dependent from the same base claim. Claim 17 has been cancelled with this amendment in order to overcome this objection.

Claims 13, 14 and 18-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 4 of U.S. Patent No. 6,592,549. Additionally, claims 13, 18 and 19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 9, 14 and 18 of U.S. Patent No. 6,723,071. Applicants respectfully traverse the Examiner's double-patenting rejections. Applicants note that the current application is indeed a continuation of the cited references. Applicants have enclosed two terminal disclaimers in compliance of 37 C.F.R. §1.321(c) with this response, thereby rendering the double-patenting rejections moot. Applicants do not concede the correctness of the rejections.

Claims 13-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lau et al., U.S. Patent No. 5,782,855 (hereinafter Lau), in view of Muni et al., U.S. Patent No. 5,533,968 (hereinafter Muni). The Examiner asserts that Lau teaches the rapid exchange stent delivery catheter as claimed in the current application, with the exception of providing the outer tubular member with a guide ramp that extends into the inner tubular member guide wire opening. The Examiner asserts that Muni suggests a guide ramp according to the claimed invention, and it would have been obvious to one skilled in the art to modify the outer member of Lau to form a ramp that extends into the inner lumen as suggested by Muni. Applicants do not concede the correctness of the Examiner's interpretation of the references and respectfully traverse this rejection.

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Applicants assert that the Examiner has failed to establish a *prima facie* case of obviousness. In order to establish a proper *prima facie* case of obviousness, it is necessary that the cited combination disclose each and every element of the claimed invention. The cited combination fails to do so. At a minimum, neither Lau nor Muni disclose a guide wire opening that is disposed within the guide wire sleeve, wherein the guide wire opening further comprises a guide wire ramp extending into the proximal guide wire opening of the inner tubular member.

According to the Examiner, Muni describes an inner tubular member 34, an outer tubular member 31, and a guidewire opening 42. The Examiner asserts that the inner tubular member 34 of Muni can be provided with a ramp 37 that is formed by extending part of the outer tubular member 31 through the opening 42.

Applicants respectfully disagree with the Examiner's understanding of Muni. First, Applicants assert that element 37 of Muni is not a ramp at all. Element 37, which the Examiner asserts is a ramp, is identified in Muni as an annular inflation lumen defined between the distal section 35 and the inner tubular member 36. (See column 7, lines 25-27.) Therefore, Muni fails to teach a ramp as the Examiner asserts. Even if the Examiner wishes to rely on the curved portion of inner tubular member 36 as a ramp, Muni fails to teach the ramp as claimed. Namely, Muni fails to teach a guide wire sleeve including a guide wire ramp extending into a proximal guide wire opening of an inner tubular member. As stated above, the curved portion is a curved portion of the inner tubular member 36 and does not extend into an opening of any other inner tubular member. In fact, the inner tubular member 36 is an innermost member; therefore, any portion of the inner tubular member may necessarily not extend into any other tubular member. Therefore, Muni fails to teach a guide wire ramp extending into a proximal guide wire opening of an inner tubular member.

Next, the Examiner relies on the high strength tubular element 34 as an inner tubular member and the distal shaft section 31 of the catheter as an outer tubular member. Applicants assert that this combination of elements does not teach what is claimed in the current invention. Specifically, tubular element 34 (relied on by Examiner as an inner tubular member) does not include a proximal guide wire opening disposed distal the proximal end of the inner tubular member to a distal guide wire opening disposed at the distal end of the inner tubular member. As shown in Fig. 6, the tubular element 34 includes an inflation lumen 40 extending from the proximal end of the tubular element 34 to the distal end of the tubular element 34. Tubular

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element 34 terminates proximal the curved portion of inner tubular member 36 (relied on by the Examiner as a ramp). Tubular element 34 necessarily has only a proximal opening at the proximal end (within the hub assembly) and a distal opening at the distal end of the tubular element 34. Therefore, it is apparent that the tubular element 34 (inner tubular member) does not include a proximal guide wire opening distal of the proximal end. Additionally, the curved portion of inner tubular member 36 (ramp) is located distal of the distal end of the tubular element 34 (inner tubular member), therefore making it impossible for the "ramp" to extend into a proximal guide wire opening of the inner tubular member, i.e., tubular element 34.

Finally, if the Examiner wishes to contend that it is the outer tubular member 31 that is equivalent to the claimed guide wire sleeve and that it is the inner tubular member 36 that is equivalent to the claimed inner tubular member, it is clear that Muni does not teach the claimed invention. The inner tubular member 36 has a proximal port 43 and a distal guidewire port 44, wherein a guidewire 41 may be extended through lumen 42. (See column 7, lines 32-38.) It appears that the guidewire port 43 is positioned proximate the proximal end of the tubular member and thus cannot reasonably be considered as equivalent to a guide wire opening disposed distal of the proximal end of the tubular member.

Applicants assert that no interpretation of the teachings of Muni describe the guide wire opening and guide wire ramp extending into the proximal guide wire opening as currently claimed. Therefore, Muni fails to remedy the noted shortcomings of Lau, and thus, the cited combination fails to disclose each and every element of the claimed invention. For at least these reasons, the obviousness rejection should be withdrawn. Claims 13-16 and 18-20 are believed patentable over the cited art, and favorable reconsideration is respectfully requested.

Claims 13-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yurek et al., U.S. Patent No. 5,690,644 (hereinafter Yurek), in view of Muni et al., U.S. Patent No. 5,533,968 (hereinafter Muni). The Examiner asserts that Yurek teaches the rapid exchange stent delivery catheter as claimed in the current application, with the exception of providing the outer tubular member with a guide ramp that extends into the inner tubular member guide wire opening. The Examiner asserts that Muni suggests a guide ramp according to the claimed invention, and it would have been obvious to one skilled in the art to modify the outer member of Yurek to form a ramp that extends into the inner lumen as suggested by Muni. Applicants do not

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concede the correctness of the Examiner's interpretation of the references and respectfully traverse this rejection.

As stated above, to establish a proper *prima facie* case of obviousness, it is necessary that the cited combination disclose each and every element of the claimed invention. The cited combination fails to do so. At a minimum, Muni does not disclose a guide wire opening that is disposed within the guide wire sleeve, wherein the guide wire opening further comprises a guide wire ramp extending into the proximal guide wire opening of the inner tubular member. The Examiner admits that Yurek fails to teach every element of the claimed invention. Specifically, the Examiner admits that Yurek at least fails to teach a guide wire sleeve including a guide wire ramp extending into a proximal guide wire opening of an inner tubular member.

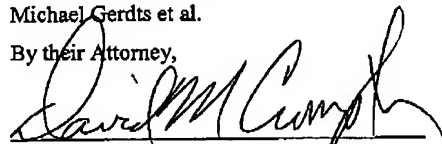
The Examiner relies on Muni to provide the missing guide wire ramp. However, as discussed in detail above, Muni also fails to describe the claimed ramp and thus cannot be considered as remedying the noted shortcomings of Yurek. As a result, Applicants respectfully assert that the cited combination fails to disclose each and every element of the claimed invention. For at least these reasons, the obviousness rejection is without merit and should be withdrawn. Claims 13-16 and 18-20 are believed patentable over the cited art, and favorable reconsideration is respectfully requested.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims, namely claims 13-16 and 18-20, are in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By their Attorney,



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